

Suspend the Rules and Pass the Bill, H.R. 3210, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

115TH CONGRESS
1ST SESSION

H. R. 3210

To require the Director of the National Background Investigations Bureau to submit a report on the backlog of personnel security clearance investigations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2017

Mr. KNIGHT (for himself and Mr. CONNOLLY) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To require the Director of the National Background Investigations Bureau to submit a report on the backlog of personnel security clearance investigations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securely Expediting
5 Clearances Through Reporting Transparency Act of
6 2018” or the “SECRET Act of 2018”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the term “Bureau” means the National
4 Background Investigations Bureau of the Office;

5 (2) the term “Director” means the Director of
6 National Intelligence acting as the Security Execu-
7 tive Agent; and

8 (3) the term “Office” means the Office of Per-
9 sonnel Management acting as the Suitability and
10 Credentialing Executive Agent.

11 **SEC. 3. REPORT ON BACKLOG OF PERSONNEL SECURITY**
12 **CLEARANCE INVESTIGATIONS.**

13 Not later than 90 days after the date of enactment
14 of this Act, and quarterly thereafter for 5 years, the Direc-
15 tor of the Bureau, in coordination with the Director, shall
16 submit to Congress a report on the backlog of personnel
17 security clearance investigations at the Bureau for the
18 most recent full calendar quarter, which shall include—

19 (1) the size of the backlog of personnel security
20 clearance investigations of the Bureau, including, for
21 each sensitivity level—

22 (A) the number of interim clearances
23 granted;

24 (B) the number of initial investigations for
25 Federal employees;

1 (C) the number of periodic reinvestigations
2 for Federal employees;

3 (D) the number of initial investigations for
4 employees of Federal contractors;

5 (E) the number of periodic reinvestigations
6 for employees of Federal contractors;

7 (F) the number of initial investigations for
8 employees of, and employees of contractors of,
9 the Department of Defense;

10 (G) the number of periodic reinvestigations
11 for employees of and employees of contractors
12 of the Department of Defense;

13 (H) the number of employees of the Bu-
14 reau conducting background investigations for
15 the Bureau; and

16 (I) the number of employees of contractors
17 of the Bureau conducting background investiga-
18 tions for the Bureau;

19 (2) the average length of time, for each sensi-
20 tivity level, for the Bureau to carry out an initial in-
21 vestigation and a periodic reinvestigation;

22 (3) a discussion of the factors contributing to
23 the average length of time to carry out an initial in-
24 vestigation and a periodic reinvestigation;

1 (4) a backlog mitigation plan, which shall in-
2 clude—

3 (A) the identification of the cause of, and
4 recommendations to remedy, the backlog at the
5 Bureau;

6 (B) the steps the Director of the Bureau
7 shall take to reduce the backlog;

8 (C) process reforms to improve efficiencies
9 in, and the quality of, background investiga-
10 tions by the Bureau; and

11 (D) a projection of when the backlog at the
12 Bureau will be sufficiently reduced to meet re-
13 quired timeliness standards; and

14 (5) a description of improvements in the infor-
15 mation and data security of the Bureau.

16 **SEC. 4. REPORT ON SECURITY CLEARANCE INVESTIGA-**
17 **TIONS OF PERSONNEL OF THE EXECUTIVE**
18 **OFFICE OF THE PRESIDENT.**

19 Not later than 90 days after the date of enactment
20 of this Act, the Director of the Office of Administration
21 of the Executive Office of the President, in coordination
22 with the Director and the Director of the Office, shall sub-
23 mit to Congress a report that explains the process for con-
24 ducting and adjudicating security clearance investigations

1 for personnel of the Executive Office of the President, in-
2 cluding personnel of the White House Office.

3 **SEC. 5. REPORT ON COSTS ASSOCIATED WITH BIFURCATED**
4 **BACKGROUND INVESTIGATION SYSTEMS.**

5 Not later than 120 days after the date of enactment
6 of this Act, the Director of the Office, in consultation with
7 the other members of the Suitability and Security Clear-
8 ance Performance Accountability Council established
9 under Executive Order 13467 (73 Fed. Reg. 38103) and
10 the Under Secretary of Defense for Intelligence, shall sub-
11 mit to Congress a report on the cost of maintaining com-
12 prehensive background investigations capability within the
13 Office under the control or direction of the Bureau and
14 a background investigations capability for Department of
15 Defense personnel under the control or direction of the
16 Department of Defense for implementation of the plan ref-
17 erenced in section 925 of the National Defense Authoriza-
18 tion Act for Fiscal Year 2018 (Public Law 115–91), as
19 compared to the cost of sustaining a single Government-
20 wide background investigations enterprise.

21 **SEC. 6. REPORTS ON CONTINUOUS EVALUATION, RECI-**
22 **PROCITY, AND TIMELINESS MEASURES.**

23 Not later than 120 days after the date of enactment
24 of this Act, the Director shall submit to Congress reports
25 that provide—

1 (1) the status of implementing continuous eval-
2 uation Government-wide, including—

3 (A) the number of agencies with contin-
4 uous evaluation programs and how many of
5 those programs are currently conducting auto-
6 mated records checks of the required data
7 sources as identified by the Director; and

8 (B) a discussion of the barriers for agen-
9 cies to implement continuous evaluation pro-
10 grams, including any requirement under a stat-
11 ute, regulation, Executive Order, or other ad-
12 ministrative requirement;

13 (2) a detailed explanation of efforts by agencies
14 to meet requirements for reciprocal recognition to
15 access classified information, including—

16 (A) the range of the length of time for
17 agencies to grant reciprocal recognition to ac-
18 cess classified information;

19 (B) additional requirements for reinves-
20 tigation or readjudications, by agency; and

21 (C) any other barriers to the timely grant-
22 ing of reciprocity, by agency, including any re-
23 quirement under a statute, regulation, Execu-
24 tive Order, or other administrative requirement;
25 and

1 (3) a review of whether the schedule for proc-
2 essing security clearances under section 3001 of the
3 Intelligence Reform and Terrorism Prevention Act
4 of 2004 (50 U.S.C. 3341) should be modified.

5 **SEC. 7. REVIEW AND UPDATE OF POSITION DESIGNATION**
6 **GUIDANCE.**

7 (a) DEFINITIONS.—In this section—

8 (1) the term “agency” has the meaning given
9 the term in Executive Order 13467 (73 Fed. Reg.
10 38103), or any successor thereto;

11 (2) the term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Homeland Security
14 and Governmental Affairs and the Select Com-
15 mittee on Intelligence of the Senate; and

16 (B) the Committee on Oversight and Gov-
17 ernment Reform and the Permanent Select
18 Committee on Intelligence of the House of Rep-
19 resentatives;

20 (3) the term “background investigation” means
21 any investigation required for the purpose of deter-
22 mining the—

23 (A) eligibility of a covered individual for
24 logical and physical access to Federally con-
25 trolled facilities or information systems;

1 (B) suitability or fitness of a covered indi-
2 vidual for Federal employment;

3 (C) eligibility of a covered individual for
4 access to classified information or to hold a na-
5 tional security sensitive position; or

6 (D) fitness of a covered individual to per-
7 form work for or on behalf of the United States
8 Government as a contractor employee; and

9 (4) the term “covered individual”—

10 (A) means a person who performs work for
11 or on behalf of the executive branch or seeks to
12 perform work for or on behalf of the executive
13 branch;

14 (B) is not limited to Federal employees;

15 (C) includes all persons, not excluded
16 under subparagraph (D), who require eligibility
17 for access to classified information or eligibility
18 to hold a sensitive position, including, but not
19 limited to, contractors, subcontractors, licens-
20 ees, certificate holders, grantees, experts, con-
21 sultants, and government employees; and

22 (D) does not include—

23 (i) the President;

24 (ii) employees of the President under
25 section 105 or 107 of title 3, United States

1 Code (except to the extent otherwise di-
2 rected by the President);

3 (iii) the Vice President; or

4 (iv) employees of the Vice President
5 under section 106 of title 3, United States
6 Code, or an annual legislative branch ap-
7 propriations Act (except to the extent oth-
8 erwise directed by the Vice President).

9 (b) REVIEW AND UPDATING.—

10 (1) INITIAL REVIEW AND UPDATE OF GUID-
11 ANCE.—Not later than 180 days after the date of
12 enactment of this Act, the Director and the Director
13 of the Office shall review and make recommenda-
14 tions to Congress and the President as appropriate
15 to issue guidance to assist agencies in determining—

16 (A) position sensitivity designation; and

17 (B) the appropriate background investiga-
18 tion to initiate for each position designation.

19 (2) REVIEWS AND REVISIONS OF POSITION DES-
20 IGNATIONS.—Not less frequently than every 4 years,
21 the President, acting through relevant agencies (as
22 determined by the President) and in accordance with
23 the guidance described in paragraph (1), shall review
24 and, if necessary, revise the position designation of
25 positions within agencies.

1 (c) REPORTS TO CONGRESS.—Not later than 30 days
2 after completing a review under subsection (b)(2), the
3 President shall submit to the appropriate congressional
4 committees a report on—

5 (1) any issues identified in the review; and

6 (2) the number of position designations revised
7 as a result of the review.

8 (d) NO CHANGE IN AUTHORITY.—Nothing in this
9 section limits or expands the authority of any agency to
10 designate a position as sensitive or as requiring its occu-
11 pant to have access to classified information.